

Draft Part 112 Rule Recommendations (as of 10/07/98)

Section 112.1(a)

(a)(1) This part establishes procedures, methods, and equipment, and other requirements for equipment to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines; or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).

(2) As used in this part, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.

Discussion: This amendment would expand the geographic scope of the rule to comport with CWA amendments. There are also a few editorial changes.

A new §112.1(a)(2) was added to make clear that words in the singular import the plural, and words in the masculine import the feminine, and vice versa. The language of new §112.1(a)(2) was lifted from §300.2 of the NCP.

Section 112.1(b)

(b) Except as provided in paragraph (d) of this section:

(1) This part applies to owners or operators of non-transportation-related onshore and offshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using ~~operationally~~, or consuming oil and oil products, and which, due to their location, could reasonably be expected to discharge oil in harmful quantities that may be harmful, as defined described in part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines; or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).

Includes
(2) This part ~~applies to~~ facilities described in paragraph (1) of this section having

~~Owners or operators of facilities subject to §112.3(a), (b) or (c) who violate the requirements of part 112 by failing or refusing to comply with any of the provisions of §§112.1(e), 112.3, 112.4, 112.5, 112.7, 112.8, 112.9, 112.10, or 112.11 shall be liable for a civil penalty in accordance with the CWA, as amended by the OPA of 1990.~~

Discussion: This section has already been rescinded.

Section 112.7 (introduction)- proposed 112.7(a), (a)(1)

~~§112.7 Guidelines for the preparation and implementation of a Spill Prevention Control and Countermeasure Plan~~

§112.7 Spill Prevention, Control, and Countermeasures Plan general requirements.

The SPCC Plan shall be a carefully thought-out plan, prepared in accordance with good engineering practices, and which has the full approval of management at a level with authority to commit the necessary resources. It shall be prepared in writing and in accordance with the format specified in this section, unless an equivalent prevention Plan acceptable to the Regional Administrator has been prepared to meet State or other Federal requirements. A Plan that does not follow the format specified in this section must meet all of the requirements listed in this section, and be supplemented with a cross-reference section to identify the location of requirements listed in this section to the equivalent requirements in the other prevention plan. If the Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items should be discussed in separate paragraphs, and the details of installation and operational start-up should be explained separately. The complete SPCC Plan shall follow the sequence outlined below, unless an equivalent prevention plan acceptable to the Regional Administrator has been prepared to meet State or other Federal requirements, and include a discussion of the facility's conformance with the appropriate requirements ~~guidelines~~ listed:

Discussion: The section heading was changed to track the 1991 proposal. It stresses that the text imposes requirements rather than guidelines, tracking the "should to shall" proposal.

The language in the introduction has been revised in response to comments to track response plan language in §112.20(h). Section 112.20(h) will be revised to include "acceptable to the RA" language included in this proposal. Revised text would allow use of an "equivalent prevention plan" or prevention plan that meets other Federal requirements (including, e.g., an Integrated Contingency Plan, a State plan, or other

Draft Part 112 Rule Recommendations (as of 11/18/98)**Section 112.1(a)****1998 text:****Redline-strikeout text:**

(a)(1) This part establishes procedures, methods, ~~and~~ equipment, and other requirements ~~for equipment~~ to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).

(2) As used in this part, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.

Revised text:

Discussion: This amendment would expand the geographic scope of the rule to comport with CWA amendments. There are also a few editorial changes.

A new §112.1(a)(2) was added to make clear that words in the singular import the plural, and words in the masculine import the feminine, and vice versa. The language of new §112.1(a)(2) was lifted from §300.2 of the NCP.

Section 112.1(b)**1998 text:****Redline-strikeout text:**

(b) Except as provided in paragraph (d) of this section, this part applies to:

(1) ~~This part applies to~~ Owners or operators of non-transportation-related onshore and offshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, and which, due to their location, could reasonably be expected to discharge oil in harmful quantities that may be harmful, as ~~defined~~ described in

~~of each such spill, corrective action taken and plans for preventing recurrence.~~

Revised text:

Discussion: We proposed to delete this section in 1991 because it refers only to pre-1973 spills, now irrelevant to SPCC planning.

Section 112.7(a) Spill Prevention, Control, and Countermeasure Plan general requirements.

1998 text:

Redline-strikeout text:

(a)The SPCC Plan shall be a carefully thought-out plan, prepared in accordance with good engineering practices, and which has the full approval of management at a level with authority to commit the necessary resources. It shall be prepared in writing and in accordance with the format specified in this section, unless an equivalent prevention Plan acceptable to the Regional Administrator has been prepared to meet State or other Federal requirements. A Plan that does not follow the format specified in this section must meet all of the requirements listed in this section, and be supplemented with a cross-reference section to identify the location of requirements listed in this section to the equivalent requirements in the other prevention plan. If the Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items should be discussed in separate paragraphs, and the details of installation and operational start-up should be explained separately.

(1) The complete SPCC Plan shall follow the sequence outlined below, unless an equivalent prevention plan acceptable to the Regional Administrator has been prepared to meet State or other Federal requirements, and include a discussion of the facility's conformance with the appropriate requirements ~~guidelines~~ listed.

Revised text:

Discussion: The numbering of this section was changed from the present rule to reflect the addition of the 1991 proposals. The section heading was changed to track the 1991 proposal, except that "countermeasures" becomes singular (a grammatical revision). It stresses that the text imposes requirements rather than guidelines, tracking the "should to shall" proposal.

The language in the introduction has been revised in response to comments to track response plan language in §112.20(h). Section 112.20(h) will be revised to include "acceptable to the RA" language included in this proposal. Revised text would allow use of an "equivalent prevention plan" or prevention plan that meets other Federal